



# **NEW JERSEY TURNPIKE AUTHORITY**

## **QUALIFICATION OF RETAIL MARKET VENDORS FOR MAKING AVAILABLE TO THE CONSUMER IN THE RETAIL MARKET**

**THE SALE OF**



**NEW JERSEY**

**ON-THE-GO TAGS**



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## QUALIFICATION APPLICATION CHECKLIST

Applicant must respond fully to the requirements stated in this Application. The following serves as a checklist of the information required in order to consider the submission complete:

**Section I – Introduction – Information Only/No Requirement**

**Section II – Qualification Instructions – Information Only/No Requirement**

**Section III – Qualification Criteria**

**Section IV – Retail Sales Requirements for E-ZPass On-The-Go**

**Section V – Administrative Information and Contractual Terms**

Applicant must submit one (1) original and four (4) copies of the response to this Qualification Application. Applicant herein states that the information that is provided in response to this Qualification Application is true and accurate.

SUBMITTED BY:

NAME \_\_\_\_\_  
Applicant

TITLE \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

SWORN AND SUBSCRIBED TO  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 2011

\_\_\_\_\_  
Notary Public of New Jersey

## **SECTION I – INTRODUCTION**

### **A. HISTORICAL BACKGROUND**

E-ZPass<sup>SM</sup> is the name of a highly successful regionally interoperable electronic toll collection system that is operated by twenty-four (24) agencies in fourteen (14) states. A customer with an E-ZPass tag issued by any member agency can use the tag at all E-ZPass member facilities. A map showing the E-ZPass member agencies and the participating states is contained in Appendix A. At the end of December 2010, the E-ZPass system had approximately 15.5 million account holders with 20.8 million E-ZPass tags in circulation. Over \$5.1 billion in tolls is collected through the E-ZPass system on an annual basis. In addition to the E-ZPass electronic toll collection system there is an E-ZPass Plus system that allows E-ZPass account holders to pay for parking fees with their E-ZPass tag at JFK, LaGuardia, Newark Liberty and Albany Airports, and at the South Jersey Transportation Authority Parking Garages on New York Avenue and Atlantic Avenue in Atlantic City. New Jersey E-ZPass represents over 2 million active accounts and 4 million active tags within the overall E-ZPass system.

The distribution of New Jersey E-ZPass tags is presently done at three walk-in locations, located in Newark, New Jersey, Camden, New Jersey, and New Castle, Delaware, and through the mail, resulting in the issuance of nearly 378,000 tags annually. E-ZPass tags distributed in this manner require a customer to wait 48-hours after receipt of the tag before beginning to use them. Those customers that chose to receive their tags by mail incur the additional delay of waiting for the mail.

### **B. E-ZPASS ON-THE-GO**

In an effort to allow the immediate use of the E-ZPass tag and to make purchasing the E-ZPass tags more convenient, the Authority along with other members of the E-ZPass organization developed the E-ZPass On-The-Go product. E-ZPass On-The-Go is an E-ZPass tag that is packaged in a plastic clam shell container that is designed to be hung on a merchandise display or placed on a countertop for retail sale. Once purchased and opened by the customer the E-ZPass tag is available for immediate use in his or her passenger vehicle.

### **C. PURPOSE OF SOLICITATION**

This is a Qualification Application issued by the New Jersey Turnpike Authority (hereinafter, “Authority”) to qualify businesses with retail facilities located in the State of New Jersey, on a non-exclusive basis, to sell New Jersey E-ZPass<sup>SM</sup> On-The-Go directly to the public.

The Authority intends to award one or more qualifying Applicants with contracts to sell E-ZPass On-The-Go to the public at its sole discretion. The contracts will commence on or about the date of award, and shall be for a term not to exceed three years with two one-year extension options to be exercised at the sole discretion of the Authority. The Authority reserves the right to exercise the extension option on an individual basis.

Carefully read all sections of this Qualification Application and respond where applicable.

#### **D. INQUIRIES**

**ONLY type-written** inquiries concerning the Application will be accepted and may be directed to Andrea E. Ward, Director, Purchasing Department, New Jersey Turnpike Authority, P.O. Box 5042, Woodbridge, New Jersey 07095-5042. Inquiries by FAX are acceptable. The FAX number is 732-750-5399. The inquiry deadline is **4:30 P.M. EST, Thursday, August 11, 2011, 2011**. Inquiries will not be entertained after this date and time.

#### **E. CLOSING DATE**

One (1) original and four (4) copies of the Applicant's Application must be received no later than **4:30 P.M. EST, Tuesday, August 30, 2011** addressed to Andrea E. Ward, Director, Purchasing Department:

##### Regular Mail

New Jersey Turnpike Authority  
P. O. Box 5042  
Woodbridge, NJ 07095

##### Federal Express or Other Overnight Delivery

New Jersey Turnpike Authority  
581 Main Street  
Woodbridge, NJ 07095

Applications not delivered by the stated time and date shall not be considered unless the time is extended by the Authority pursuant to a written Addendum.

## **SECTION II – QUALIFICATION INSTRUCTIONS**

- A.** The purpose of this document is to qualify Applicants who wish to sell E-ZPass On-The-Go to customers (the general public) through retail markets. This document shall not entitle any Applicant to a contract to sell E-ZPass On-The-Go. The Authority reserves the right to cancel or abandon this qualification process if it determines that it would be in its best interest to do so.
- B.** All Applicants interested in seeking to qualify shall submit a completed Qualification Application hereunder. The Authority shall review the responses to the Qualification Applications, and may conduct facility inspections and interviews as deemed necessary in the sole discretion of the Authority. The Authority reserves the right to request such additional information from Applicants as may be deemed necessary. Once the Authority has completed its review of the responses and has completed the inspections, the Authority will notify each Applicant as to whether it has been qualified.
- C.** The Authority reserves the right to deny the Qualification Application of any or all Applicant responses if, in the Authority's sole opinion, the Applicant(s) have failed to demonstrate the financial or operational capability to sell E-ZPass On-The-Go. The Authority also reserves the right to deny the Qualification Application of any or all Applicants if they fail to meet any of the requirements set forth herein, or for any other reason allowed by law.
- D.** Any Applicant who is denied qualification status, or any qualified retail vendor who is disqualified for any reason, shall be entitled to a hearing in accordance with the procedures set forth in N.J.A.C. 19:9-2.12. A copy of the Regulation is attached hereto as Appendix A – page 49 herein.
- E.** The Authority will award contract(s) for sale of E-ZPass On-The-Go only after the Authority has finalized its review of all Qualification Applications received, has made a decision regarding each application, and has notified all Applicants of the decision regarding the status of their application. A determination that an Applicant is Qualified does not guarantee a contract award. The Authority reserves the right, based upon its needs and the responses to this solicitation, to determine the number of contracts to be awarded. If the Authority determines that additional information is needed to choose among Qualified Applications, the Authority will issue a Request for Proposal to all Qualified Applicants to determine which Qualified Applicants will receive contract awards.

### SECTION III – QUALIFICATION CRITERIA

**APPLICANTS FOR RETAIL SALE OF E-ZPASS ON-THE-GO MUST FULLY COMPLETE THE FOLLOWING QUESTIONNAIRE AND MUST MEET THE MINIMUM REQUIREMENTS DESCRIBED HEREIN.**

**THE AUTHORITY WILL QUALIFY ONLY THOSE APPLICANTS THAT DEMONSTRATE THE FINANCIAL CAPABILITY, EXPERIENCE AND QUALIFICATIONS TO SELL E-ZPASS ON-THE-GO AT THEIR RETAIL LOCATION(S).**

**FAILURE TO COMPLETE ANY PORTION OF THE APPLICATION MAY RESULT IN A DENIAL OF YOUR QUALIFICATION APPLICATION.**

**PLEASE TYPE OR PRINT ALL RESPONSES.**

#### **A. CORPORATE/PARTNERSHIP INFORMATION**

SUBMITTED BY: \_\_\_\_\_

(Print Name of Company)

\_\_\_\_\_  
(Print Name/Title of Person Completing Application)

Mailing address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

Check One: Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Individual \_\_\_\_\_

If Corporation, answer the following:

Date of Incorporation: \_\_\_\_\_ State of Incorporation: \_\_\_\_\_

President's Name: \_\_\_\_\_

Vice-President's Name: \_\_\_\_\_

Secretary's Name: \_\_\_\_\_

Treasurer's Name: \_\_\_\_\_

If a Partnership, answer the following:

Date of Organization: \_\_\_\_\_ State of Organization: \_\_\_\_\_

Gross Annual Revenue for all Retail Locations Submitted: \$ \_\_\_\_\_

Name and Address of Partners:

(Attach additional sheets, if required. Identify the page and section on the attachment.)

**NAME ADDRESS CITY STATE ZIP**

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**B. PROPOSED RETAIL LOCATION(S)**

All proposed locations by the Applicant where the Applicant intends to sell E-ZPass On-The-Go shall be located within the State of New Jersey. **Applicant must provide a copy of a certificate of occupancy for each proposed retail location(s).**

Applicant represents that the retail location(s) meet all applicable municipal, county and state codes and/or regulations. These include, but are not limited to, a) fire/fire prevention; b) electrical; c) plumbing; d) hazardous waste disposal; e) zoning requirements; f) parking; and g) health.

*(Attach additional sheets, if required. Identify the page and section on the attachment.)*

County: \_\_\_\_\_, New Jersey

Address: \_\_\_\_\_

\_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Contact: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

**How long at location?** \_\_\_\_\_ **Annual revenue?** \_\_\_\_\_

**Monthly foot traffic?** \_\_\_\_\_

**C. RETAIL EXPERIENCE OF APPLICANT**

**A minimum of three (3) years general retail sales experience in New Jersey is required.**

LIST THE NUMBER OF YEARS OF EXPERIENCE: \_\_\_\_\_

**D. EVIDENCE OF FINANCIAL CAPACITY**

**A minimum of \$3,000,000 in retail gross sales by the Applicant is required to be considered as a potential retailer for the E-ZPass On-The-Go.**



Applicant shall attach audited financial statements prepared and certified by a Certified Public Accountant for the most recent fiscal year. If a 2010 certified financial statement is not available, Applicant may attach a signed and filed copy of its most recent federal income tax return. This information is required to demonstrate that Applicant is financially capable of performing the Services upon which Applicant states in response to this Qualification. All information provided in response to this Section will be kept confidential.

**CERTIFIED FINANCIAL STATEMENT ATTACHED**    *Yes* \_\_\_\_\_ *No* \_\_\_\_\_

**OR**

**IRS RETURN ATTACHED** *Yes* \_\_\_\_\_ *No* \_\_\_\_\_

Applicant agrees to provide the Authority access to their credit history as well as any additional credit information if requested.

## **E. OTHER RELEVANT QUALIFICATIONS**

Please use the space below to provide a statement of any other facts that may be relevant to the Applicant's qualifications to sell E-ZPass-On-The-Go (for example, the number of high traffic locations, success in selling comparable products (gift cards, telephone cards, etc.), ongoing customer service efforts, creative placement/marketing plans):

[illegible]

**F. BUSINESS PRACTICE COMPLAINTS**

Has a complaint to the Better Business Bureau been lodged against the Applicant or any of the Applicant's businesses in the last five (5) years?

*Yes* \_\_\_\_\_ *No* \_\_\_\_\_ If yes, please provide the details for each complaint and the determination made by the Better Business Bureau regarding such complaints.

**G. RETAIL LOCATION INSEPTION**

As part of the Qualification process, Applicant's location(s) may be subject to inspection by Authority personnel. **General inspections provided for in this section will be unannounced.** It is the responsibility of the Applicant to show Authority personnel that the requirements of this Qualification Application are satisfied within the retail location.

After award of a contract, Retail Vendor location(s) shall be subject to inspections at any time during the term of the contract, at the discretion of the Authority, to ensure that the Retail Vendor continues to meet all of the requirements set forth herein.

**H. CRIMINAL BACKGROUND CHECKS**

Applicant hereby agrees that in the event it is awarded a contract, it will supply to the Authority any information, and will execute or have executed at the Authority's request any document(s) necessary to enable a criminal background check to be performed on its principals, shareholders and/or employees and to have that information provided to the Authority. Applicant further agrees to ensure that the necessary process is undertaken and completed. After the award of a contract, if it is determined by the Authority that a principal within his/her/its company/corporation or any employee or shareholder of his/her/its corporation shall have criminal record information existing on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police that violates the terms set forth below, the Applicant will immediately be given notice and five (5) days to take appropriate action as set forth by the Authority. In the event that the Authority requests that a principal/employee be disqualified from employment because of the reasons set forth herein, Applicant agrees to be bound by and conform to this request. Applicant understands and further agrees that failure to take the action set forth by the Authority will constitute a material breach of contract and may result in suspension or termination.

As used herein, shareholder means any owner or person in control of 10% or more of the shares of the corporation which is submitting the application or bid to provide Services. The Authority reserves the right to request this information and perform background checks as it deems necessary throughout the term of this Agreement.

Disqualification will be warranted if the criminal history record check reveals a conviction:

(1) In New Jersey, of any crime or disorderly persons offense:

- (a) involving danger to the person pursuant to N.J.S.A. 2C:11-1 et seq., N.J.S.A. 2C:24-1 et seq., N.J.S.A. 2C:14-1 et seq. or N.J.S.A. 2C:15-1 et seq., or
  - (b) against the family, children or incompetents, pursuant to N.J.S.A. 2C:24-1 et seq.; or
  - (c) involving a violation of any nature regarding work on any contract with the State, any State agency or any county or municipality for the provision of services similar to the services to be provided by this contract for which the Applicant submits this Application.
- (2) In any other state or jurisdiction, for conduct which, if committed in New Jersey, would constitute any of the crimes or offenses included in paragraph (1) of this subsection.

Notwithstanding the above provisions, a principal/employee shall not be disqualified hereunder on the basis of any conviction disclosed by a criminal history record check if the individual has affirmatively demonstrated to the Authority clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the Authority shall consider:

The nature and responsibility of the individual's prospective position;

The nature and seriousness of the offense;

The circumstances under which the offense occurred;

The date of the offense;

The age of the principal/employee when the offense was committed;

Whether the offense was repeated;

Social conditions which may have contributed to the offense; and

Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional, academic or vocational education, successful participation in correctional work-release programs, or the recommendation of persons who have supervised the principal/employee.

## **SECTION IV – RETAIL SALE REQUIREMENTS FOR E-ZPASS ON-THE-GO**

### **A. ORDERS**

Qualified Applicants who are awarded contracts to sell E-ZPass-On-The-Go tags pursuant to this solicitation (“Retailers”) shall be required to purchase such tags from New Jersey E-ZPass. Retailers shall pay New Jersey E-ZPass for each tag upon delivery. The current price per tag is \$25. Initial orders shall be for no less than 200 E-ZPass On-The-Go tags for each proposed location, and thereafter reorder quantities shall be in lots of not less than 200 tags. Once the ordered inventory is in the Retailer's possession, the Retailer assumes all risk of loss and shall not be allowed to return or request refunds for any unsold inventory except upon termination of the contract. The Retailer shall be responsible for maintaining, securing, and tracking inventories of the product at each of their proposed locations.

### **B. SERVICE FEE**

Retailers will be allowed to add a service fee of not more than \$4.00 to the \$25 price of the product. There shall be no other fees or additional markups allowed beyond this service fee. Retailers may request the service fee be increased from what was contained in the original pre-qualification submission, up to the \$4.00 maximum allowed, once a year on the anniversary of the award of the contract by submitting a request to the Authority in writing.

**Year one service fee the Retailer will charge the public (maximum \$4.00): \$\_\_\_\_\_**

### **C. ESTABLISHMENT OF A RETAIL VENDOR ACCOUNT**

Each Retailer will be issued a letter from the Authority authorizing it to establish an account with New Jersey E-ZPass as a Retail Vendor of E-ZPass On-The-Go. The Applicant shall establish a merchant account with the New Jersey E-ZPass Customer Service Center and shall place the initial order for product within 2-weeks of being advised of their login to the website that will allow the Retailer to manage the established account and to place orders for the product.

### **D. SHIPPING**

Orders will be shipped to a single shipping address as designated by the Retailer. It is the Retailer's responsibility to distribute the inventory from this location to location(s) at which the Retailer has submitted and received approval from the Authority to carry the E-ZPass On-The-Go product. Orders will be shipped within 2 weeks after payment is received and processed using either the US Postal Service or other commercial carriers at the sole discretion of the Authority at no charge to the Retailer.

## **E. MARKETING PLANS, MARKETING MATERIALS, AND ADVERTISING CAMPAIGNS**

All E-ZPass On-The-Go marketing plans, marketing materials, marketing campaigns, and advertising relating to E-ZPass On-The-Go shall be submitted to the Authority for its approval or rejection. The Authority shall have 30 days to review the submitted plans, marketing materials, advertising campaigns, advertising (the submissions) and to either approve or reject them. In the event the Authority rejects the submissions, the Authority will provide comments on deficiencies or inappropriateness of the submissions. The Retailer shall address the Authority's comments by incorporating and or modifying the submissions and then shall resubmit them to the Authority for approval. The Authority will have 20 days to review the resubmitted materials and to approve or reject them.

**The Authority maintains the right to reject any Retailer's marketing plans, marketing materials, and advertising campaigns that are not consistent with the program or that do not meet with the terms of the licensing requirements for the use of the E-ZPass Service Mark. Failure to meet any of the above mentioned requirements at any time during the term of a Retailer's contract may be considered a breach of contract.**

## **F. ADVERTISING**

The Retailer shall, at a minimum, prominently advertise the availability of E-ZPass On-The-Go at each of the proposed location(s) where the product is being offered for sale to the public.

## **G. IN-STORE DISPLAY/COUNTERS**

The Retailer is responsible for providing the marketing displays and/or counters for the E-ZPass On-The-Go product.

## **H. REFUNDS**

### **1. Opened Package**

The Retailer shall not accept nor give a customer a refund on any opened E-ZPass On-the-Go package.

In the event the E-ZPass On-the-Go package has been opened, the customer should be advised to do the following:

- Register the tag per the enclosed instruction with NJ E-ZPass;
- Call the NJ E-ZPass Customer Service Center (1-888-288-6865) to request the instructions on how to close an E-ZPass On-the-Go account.
- Follow the instructions supplied by the NJ E-ZPass Customer Service Center to close the account and receive a refund, if any is due after processing the request.

## **2. Unopened Package**

The Retailer may accept an unopened package for return and refund based on their refund policy for unopened merchandise.

The Retailer may resell any returned unopened E-ZPass On-the-Go tags to another customer.

## **I. SALES RECORDS**

The Retailer shall be required to maintain accurate records of all E-ZPass On-The-Go sales. Such records are subject to audit by the Authority upon demand. The Applicant will be required to maintain the sale records and inventory tracking reports throughout the term of the Contract and for two years thereafter.

## **J. DISCRIMINATION**

The Retailer and its employees will not discriminate against any customer because of age, race, creed, color, national origin, ancestry, marital status, affectational/sexual orientation, or upon any other basis contrary to law.

## **K. COMPLAINT RESOLUTION**

Upon receipt of a complaint from a customer concerning an overcharge or other impermissible charge, the Authority will notify the Retailer of the complaint and will undertake an investigation. If, after such investigation, the Authority substantiates and confirms the allegations of the complaint, the Authority will require the Retailer to make immediate restitution to the customer. If the Retailer refuses to do so, such refusal will be considered a material breach of contract.

## **L. RETAIL SALES LOCATIONS AND ADDITIONS**

At all times during the term of the contract, the Retailer must conduct the sales of E-ZPass On-The-Go from the location(s) listed on the Qualification Application submitted by the Retailer. If the Retailer desires to relocate during the term of the contract, the Retailer shall seek the Authority's prior written approval to perform the services from the Retailer's new location (address), which approval will not be unreasonably withheld. **The new location must adhere in all respects and satisfy all the requirements and conditions set forth in this solicitation.** The Authority shall perform an inspection of the proposed location prior to approval being granted. Retailer's failure to receive prior written approval from the Authority may constitute a material breach of contract and be grounds for termination.

## **M. HOURS OF AVAILABILITY**

At a minimum, Retailers shall be required to make available E-ZPass On-The-Go to customers during normal retail business hours.

**N. REPORTING REQUIREMENTS**

The Retailer shall provide an inventory report as well as a detailed and summary monthly sales report for each location(s) for which the Retailer has received approval from the Authority to carry the E-ZPass On-The-Go product. The report will be mailed within 5 business days of the end of the prior month to the following address:

Stanley J. Ciszewski  
Assistant Director ETC Planning  
P.O. Box 5042  
Woodbridge, NJ 07095-5042

With a Copy to:

Director of Law  
New Jersey Turnpike Authority  
581 Main Street  
Woodbridge, NJ 07095

The Retailer shall be required to inform the Authority in writing of any concerns, questions, or complaints within 5 business days and by phone to the designated Authority contact immediately. Failure or refusal to submit a monthly report or to notify the Authority of complaints as required will be considered a breach of contract.



## **SECTION V – ADMINISTRATIVE INFORMATION AND CONTRACTUAL TERMS**

### **A. DIVISION OF REVENUE REGISTRATION**

Pursuant to the terms of N.J.S.A. 52:32-44, successful Applicant will be required to provide to the Authority proof of valid business registration with the New Jersey Division of Revenue in the Department of the Treasury. In addition, the successful Applicant is required to receive from any subcontractor it uses for goods and services under this contract, proof of valid business registration with the New Jersey Division of Revenue. Any Applicant who has an Agreement with the Authority for Services shall not enter into an agreement with any subcontractor until the subcontractor has provided written proof of valid business registration. **A Certificate of Registration shall be submitted by all Applicants at the time of submission of their respective Applications. Failure to include a Certificate of Registration with the Application will result in a rejection of said Application.** All questions regarding this requirement should be referred to the New Jersey Division of Revenue hotline at (609) 292-1730.

### **B. REJECTION OF APPLICATIONS**

The Authority reserves the right to reject any and all Applications. The Authority shall not be obligated at any time to award any Contract to any Applicant.

### **C. FINAL CONTRACT**

The terms of any Contract entered between the Authority and a successful applicant shall include the terms of this Qualification Application, any addenda thereto, the response thereto submitted by the Applicant, and the Authority's Notice of Award, all of which documents are to be treated as one instrument.

### **D. DISSEMINATION OF INFORMATION**

Information included in this document or in any way associated with this Qualification is intended for use only by the Applicant and the Authority and is to remain the property of the Authority. Under no circumstances shall any of said information be published, copied or used, except in replying to this Qualification.

### **E. PUBLIC RECORDS**

Any Application received from an Applicant under this Qualification constitutes a public document that will be made available to the public upon request. An Applicant may request the Authority's Director of Law to deem certain sections of its Application containing personal, financial or proprietary information non-disclosable, as permitted by N.J.A.C. 19:9-4.2(a)4, which determination shall be in the sole discretion of the Director of Law. Moreover, the Authority cannot guarantee that it will not be compelled to disclose all or part of any public record under the New Jersey Open Public Records Act. Information deemed to be confidential by the Applicant may not be considered confidential under New Jersey or Federal law, or pursuant to a court order. The Applicant will be deemed to have submitted all such information with this understanding.

## **F. NEWS RELEASES**

No news releases pertaining to this Qualification or any Project to which it may relate shall be made without the Authority's approval.

## **G. AFFIRMATIVE ACTION**

The Applicant must certify that it does not discriminate in the hiring or promotion of any minorities, as designated by the Equal Employment Opportunity Commission of the United States of America, or the Department of Civil Rights of the State of New Jersey; and that it does not discriminate against any person or persons on the basis of race, creed, age, color, sex, national origin, ancestry, marital status and affectional or sexual orientation or handicap.

In addition, the Applicant must state in the Application that the Applicant agrees to fulfill all requirements and goals and to complete the appropriate forms. The following are included in Section VI:

Exhibit A – Mandatory Equal Employment Opportunity Language

Exhibit B – Affirmative Action Information Sheet

However, if an Applicant maintains a current Letter of Federal Approval, or a current Certificate of Employee Information Report Approval as issued by the Department of the Treasury, State of New Jersey, it may be submitted in place of the AA-302 Form. The appropriate form must be completed and submitted to the Authority by the selected Firm immediately after being notified of award of the Contract.

## **H. STATE CONTRACTOR POLITICAL CONTRIBUTIONS NOTICE: PUBLIC LAW 2005, CHAPTER 51, EXECUTIVE ORDER 134 AND EXECUTIVE ORDER 117**

To be eligible for an award, Applicants must comply with the requirements of P.L. 2005, c. 51, N.J. S.A. 19:44A-20.13 et seq., and with the requirements of Executive Order 117 (Corzine). No award may be made to an Applicant who has not complied with these laws regarding political contributions. A more detailed explanation of these requirements is set forth in Exhibit C.

### **1. ADDITIONAL DISCLOSURE REQUIREMENTS OF P.L. 2005, C. 271**

Applicants are advised of their responsibility to file annual disclosure statements on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to P.L. 2005, c. 271, section 3, if they receive contracts in excess of \$50,000 from any public entity in a calendar year. It is the Applicant's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Applicants must include an affidavit acknowledging this requirement, on the form set forth in Exhibit F.

Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

**I. CODE OF ETHICAL STANDARDS**

The Applicants are advised that the Authority have adopted the New Jersey Uniform Code of Ethics, a copy of which is attached as Exhibit I. By submitting an Application, the Applicant agrees to be subject to the intent and purpose of said Code and to the requirements of the Division on Ethical Standards of the State of New Jersey.

**J. RIGHT TO AUDIT CLAUSE**

Applicant shall keep and maintain proper and adequate books, records and accounts accurately reflecting all costs and amounts billed to Authority with regard to this agreement. Authority, its employees, officers, or representatives shall have the right upon written request and reasonable notice, to inspect and examine all books and records related to the Applicant's books and records specific to the agreement. Such records shall be retained by Applicant for at least seven (7) years. In no event shall books and records be disposed of or destroyed of prior to seven (7) years or during any dispute or claim between Authority and Applicant with regard to this agreement.

**K. SHAREHOLDERS/PARTNERSHIP DISCLOSURE STATEMENT**

Each Applicant shall return to the Authority with its Application a completed, dated, signed and witnessed Shareholders/Partnership Disclosure Statement set forth as Exhibit D. Failure to include the completed and signed form shall be grounds for rejection of Applicants' Application.

**L. VENDOR DISCLOSURE FORM – EXECUTIVE ORDER NO. 129 (MCGREEVEY 2004)**

Executive Order No. 129 requires disclosure that all parties seeking business under a contract with the Authority disclose the origin and location of the performance of their services that are the subject matter of the contract. Each Applicant shall return to the Authority with its Application as completed, dated and certified Vendor Disclosure Form set forth as Exhibit E.

**M. AFFIDAVIT OF NON-COLLUSION**

Each Applicant shall return to the Authority with its Application a completed, dated, signed and witnessed Affidavit of Non-Collusion set forth as Exhibit G. Failure to include the completed and signed form shall be grounds for rejection of Applicant(s)'s Application.

**SECTION VI: CHECKLIST AND EXHIBIT DOCUMENTS**

**CHECKLIST OF ITEMS**

**THE FOLLOWING ITEMS, AS CHECKED BELOW, MUST BE SUBMITTED WITH YOUR RFP RESPONSE PACKAGE ALONG WITH THE CHECKLIST ITSELF:**

**Check off as read, signed & submitted**

√		<b>CHECK LIST</b>	√
√	<b>A.</b>	<b>AFFIRMATIVE ACTION INFORMATION SHEET</b>	
√	<b>B.</b>	<b>MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE (Professional Services)</b>	
	<b>C.</b>	<b>STATE CONTRACTOR POLITICAL CONTRIBUTIONS NOTICE Public Law 2005, Chapter 51, Executive Order 134 and Executive Order 117</b>	<b>FYI</b>
√	<b>D.</b>	<b>STOCKHOLDER/PARTNERSHIP DISCLOSURE STATEMENT</b>	
√	<b>E.</b>	<b>FIRM DISCLOSURE FORM – EXECUTIVE ORDER 129</b>	
√	<b>F.</b>	<b>NJ ELECTION LAW ENFORCEMENT COMMISSION REQUIREMENT FOR DISCLOSURE OF POLITICAL CONTRIBUTIONS</b>	
√	<b>G.</b>	<b>AFFIDAVIT OF NON-COLLUSION</b>	
√	<b>H..</b>	<b>NJ BUSINESS REGISTRATION CERTIFICATE</b>	
	<b>I.</b>	<b>NJ UNIFORM ETHICS CODE</b>	<b>FYI</b>
√	<b>J.</b>	<b>SMALL BUSINESS ENTERPRISE/MINORITY BUSINESS ENTERPRISE/WOMAN BUSINESS ENTERPRISE FORM</b>	
√			

\_\_\_\_\_  
**(Firm)**

\_\_\_\_\_  
**(Title)**

\_\_\_\_\_  
**(Signature)**

\_\_\_\_\_  
**(Date)**

\_\_\_\_\_  
**(Name – please print or type)**

\_\_\_\_\_  
**(Telephone Number/Fax Number)**

## **EXHIBIT A**

### **AFFIRMATIVE ACTION INFORMATION SHEET**

APPLICANTS ARE REQUIRED TO SUBMIT ONE OF THE FOLLOWING FORMS RELATING TO COMPLIANCE WITH AFFIRMATIVE ACTION REGULATIONS. **PLEASE COMPLETE AND RETURN THIS FORM AND ANY REQUIRED DOCUMENTS WITH THE APPLICATION.**

1. The applicant has a Federal Affirmative Action Plan Approval which consists of a valid letter from the United States Department of Labor Office of Federal Contract Compliance Programs (Good for one year of the date of letter).

YES \_\_\_\_\_ NO \_\_\_\_\_

If Yes, a photocopy of the Letter of Approval is to be submitted with the bid.

**(OR)**

2. The applicant has submitted an Affirmative Action Employee Information Report (Form AA302) to the State Treasurer, and the State Treasurer has approved said report pursuant to N.J.A.C. 17:27-4.6.

YES \_\_\_\_\_ NO \_\_\_\_\_

If Yes, a photocopy of the Certificate of Employee Information Report is to be submitted with the bid.  
(Expiration Date on Certificate)

Certificate Number \_\_\_\_\_

**(OR)**

3. The applicant has submitted an Employee Information Report (Form AA302) to the State Treasurer, and the State Treasurer has not yet approved said report.

YES \_\_\_\_\_ NO \_\_\_\_\_

If Yes, a photocopy of the Form AA302 is to be submitted with the bid.

If you are a successful applicant and have none of the above, please contact the Purchasing Department at **(732) 750-5300 ext. 8629** within five (5) days of notification of award for an Affirmative Action Employee Information Report (Form AA302). This completed form must be forwarded to the State Treasurer, Division of Public Contracts, Equal Opportunity Compliance Office, with the AUTHORITY's Copy (Pink) returned to the Turnpike Authority Purchasing Department.

The signature below certifies that one of the above forms of Affirmative Action evidence has been submitted, and all information contained above is correct to the best of my knowledge.

Signed \_\_\_\_\_ Date Signed \_\_\_\_\_

Print Name and Title \_\_\_\_\_

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

## **EXHIBIT B**

### **MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27**

#### **GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS**

During the performance of this contract, the contractor agrees as follows:

- A. The Contractor or Subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.
- B. The Contractor or Subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity, or expression, disability, nationality or sex.
- C. The Contractor or Subcontractor will send to each labor union with which it has a collective bargaining agreement a notice, to be provided by the agency contracting officer, advising the labor union of the Contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Contractor or Subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time, and the Americans with Disabilities Act.
- E. The Contractor or Subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.
- F. The Contractor or Subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
- G. The Contractor or Subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personal testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.
- H. In conforming with the targeted employment goals, the Contractor or Subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

I. The Contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- i. Letter of Federal Affirmative Action Plan Approval
- ii. Certificate of Employee Information Report
- iii. Employee Information Report Form AA302

The Contractor and its Subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27**

Submitted by:

**Firm Name:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **EXHIBIT C**

### **STATE CONTRACTOR POLITICAL CONTRIBUTIONS NOTICE** **Public Law 2005, Chapter 51, Executive Order 134 and Executive Order 117**

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 (McGreevey) was signed on September 22, 2004 and became effective October 15, 2004. EO134 was applicable to all State agencies, the principal departments of the executive branch, any division, board, bureau, office, commission within or created by a principal executive branch department, and any independent State authority, board, commission, instrumentality or agency. EO134 was superseded by P.L. 2005, c. 51, signed into law on March 22, 2005 ("Chapter 51"). In September 2008, Executive Order 117 (Corzine) was signed and became effective November 15, 2008. EO117, which applies only prospectively, extends Chapter 51's political contribution restrictions by expanding the definition of "business entity" to include, for example, more corporate shareholders and sole proprietors. EO117 and Chapter 51 contain restrictions and reporting requirements that will necessitate a thorough review of their provisions by bidders.

Pursuant to the requirements of Chapter 51 and EO117, the terms and conditions set forth in this Exhibit are material terms of any contract entered into by the Authority.

### **DEFINITIONS**

For the purpose of this Exhibit, the following shall be defined as follows:

a) "**Contribution**" – means a contribution reportable by the recipient under the New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c. 83, N.J.S.A. 19:44A-1 et seq., and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq., made on or after October 15, 2004. As of January 1, 2005, contributions in excess of \$300 are reportable.

b) "**Business Entity**" – means any natural or legal person; business corporation (and any officer, person, or business entity that owns or controls 10% or more of the corporation's stock); professional services corporation (and any of its officers or shareholders); limited liability company (and any members); general partnership (and any partners); limited partnership (and any partners); in the case of a sole proprietorship: the proprietor; a business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction, including its principals, officers, or partners. The definition of a business entity also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse, civil union partner or child, residing in the same household, except for contributions by spouses, civil union partners, or resident children to a candidate for whom the contributor is eligible to vote, or to a political party committee within whose jurisdiction the contributor resides.

### **PROHIBITION ON CONTRACTS/BREACH OF EXISTING CONTRACT**

As set forth in Chapter 51 and EO117, the Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of



money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, or to any State, county or municipal political party committee, or legislative leadership committee during specified time periods.

Further, it shall be a breach of the terms of any contract with the Authority for any Business Entity who has been awarded the contract, during the term of the contract or any extension thereof, to:

- (i) make or solicit a contribution in violation of Chapter 51 or EO117;
- (ii) knowingly conceal or misrepresent a contribution given or received;
- (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor or Lieutenant Governor, or to any State, county or municipal party committee, or legislative leadership committee;
- (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the Business Entity itself, would subject that entity to the restrictions of Chapter 51 or EO117;
- (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- (vii) engage in any exchange of contributions to circumvent the intent of Chapter 51 or EO117; or
- (viii) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of Chapter 51 or EO117.

### **CERTIFICATION AND DISCLOSURE REQUIREMENTS**

Prior to the award of any contract or agreement, the Authority shall notify any Business Entity to which it intends to award a contract of the need to submit to the Authority a completed Certification and Disclosure of Political Contributions form, as issued by the State Treasurer. **The intended awardee will receive the applicable form from the Authority's Purchasing Department to be completed and returned to the Authority for submission to the State Treasurer.**

In completing this form, the Business Entity must certify that no contributions prohibited by Chapter 51 or EO117 have been made by the Business Entity and must report all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C. § 527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. Failure to submit the required forms will preclude award of the contract at issue, as well as future contract opportunities.

Upon approval by the State Treasurer, the Authority will issue a contract. However, if the State Treasurer determines that any contribution or action by a Business Entity poses a conflict of interest in the awarding of the contract or agreement at issue, the State Treasurer shall disqualify the Business Entity from award of such contract.

**Once approved by the State Treasurer, a Business Entity's Political Contributions Certification is valid for a two (2) year period from the date of approval. If, prior to the award of a contract, the State Treasurer confirms to the Authority that the intended awardee has an approved Certification that will remain valid for the term of the contract, the Authority may waive the requirement that the awardee complete an additional Certification and Disclosure of Political Contributions form.**

Any Business Entity entering into a contract with the Authority is required, on a continuing basis, to report to the Authority any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. Such reports shall be subject to review by the Authority and the State Treasurer. If the State Treasurer determines that any such contribution poses a conflict of interest, such contribution shall be deemed a material breach of the contract or agreement at issue.

**EXHIBIT D**

**STOCKHOLDER / PARTNERSHIP DISCLOSURE STATEMENT**

The undersigned Applicant, \_\_\_\_\_, a Corporation/Partnership (circle one) organized under the laws of \_\_\_\_\_, does hereby state and declare, in compliance with P.L. 1977, c. 33, N.J.S.A. 52:25-24.2, that the following stockholders or partners, as the case may be, own 10 percent or greater interest therein. (If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed.)

<u>Name</u>	<u>Address</u>	<u>Number of Shares of Stock Corporation or % of Interest in Partnership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I certify that to the best of my knowledge the list of stockholders above is current and correct.

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Witnessed by \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT E**

**VENDOR DISCLOSURE FORM EXECUTIVE ORDER # 129**

Please be advised that in accordance with Executive Order #129 (2004), the New Jersey Turnpike Authority has developed this form under the policy and procedures directed under this Order. In entering into contracts, the State contracting agencies must consider the requirements of New Jersey's contracting laws, the best interests of the State of New Jersey and its citizens, as well as applicable federal and international requirements.

The State contracting agencies shall ensure that all vendors seeking to enter into any contract in which services are procured on behalf of the State of New Jersey must disclose:

- A. The location by country where services under the contract will be performed; and
- B. Any subcontracting of services under the contract and the location by country where any subcontracted services will be performed.

**THE LOCATION BY COUNTRY WHERE SERVICES UNDER THIS CONTRACT WILL BE PERFORMED:**

Contractor Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Country:** \_\_\_\_\_

Subcontractor #1 Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Country:** \_\_\_\_\_

Subcontractor #2 Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Country:** \_\_\_\_\_

(For additional subcontractors, attach additional copies of this form)

I certify that all information is true and correct to the best of my knowledge.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**EXHIBIT F**

**NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION  
REQUIREMENT FOR DISCLOSURE OF POLITICAL CONTRIBUTIONS**

*All business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000.00 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us)*

**DISCLOSURE OF CONTRIBUTIONS TO NEW JERSEY ELECTION LAW ENFORCEMENT  
COMMISSION IN ACCORDANCE WITH N.J.S.A. 19:44A-2027**

STATE OF \_\_\_\_\_

:SS

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ and the State of \_\_\_\_\_ of full age, being duly sworn according to law on my oath depose and say that:

I am \_\_\_\_\_, a \_\_\_\_\_ in the firm of \_\_\_\_\_  
(Name) (Title, Position, etc)

\_\_\_\_\_, the Applicant seeking to Furnish and Provide the Services referenced herein; that I executed said Submission with full authority to do so; and that the Applicant acknowledges our responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if in receipt of contracts in excess of \$50,000.00 from public entities in a calendar year. I further acknowledge that business entities are solely responsible for determining if filing is necessary and that all statements contained in said Proposal and in this affidavit are true and correct, and made with full knowledge that the New Jersey Turnpike Authority relies upon the truth of the statements contained in said Proposal and in statements contained in this affidavit in awarding the contract for the Services.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for commission, percentage proposerage, or contingent fee, except bona fide employees of the Applicant, and as may be permitted by law.

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Subscribed and sworn to  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT G**

**AFFIDAVIT OF NON-COLLUSION**

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :

The undersigned, being duly sworn according to law, deposes and says:

1. That, as the party submitting the foregoing Proposal, that such Proposal is genuine and not collusive or a sham; that said Applicant has not colluded, conspired, connived, or agreed, directly or indirectly, with any Applicant or person, to put in a sham Proposal or to refrain from participating in this solicitation, and has not, in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the price of affiant or of any other Applicant, or to fix any overhead, profit, or cost element of said price, or of that of any other Applicant, or to secure any advantages against the New Jersey Turnpike Authority ("Authority"), or any person interested in the proposed contract; and that all statements in said Proposal are true.
2. The Applicant further certifies that he/she has not been convicted or found liable for any act prohibited by state or federal law involving conspiracy or collusion with respect to proposing or bidding on any public contract within the last three years. Such act or conviction does not automatically disqualify an Applicant, but may be grounds for administrative suspension or grounds for consideration by Authority as to whether Authority should decline to award a contract to such an Applicant on the basis of a lack of responsibility. If Applicant has been convicted of any act prohibited by state or federal law involving collusion with respect to proposing or bidding on any public contract within the past three years, Applicant should attach an explanation of the circumstances surrounding that conviction.

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SIGNATURE

Subscribed and sworn to  
before me this \_\_\_ day  
of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Notary Public

## **EXHIBIT H**

### **NJ DIVISION OF REVENUE BUSINESS REGISTRATION**

For information regarding the New Jersey Division of Revenue Business Registration Requirement, Applicants can contact the Bureau of Client Registration at (609) 292-1730.

If you wish to file your application online, you may do so by visiting the following website:  
<http://www.nj.gov/treasury/revenue/busregcert.htm>

## **EXHIBIT I**

### **NEW JERSEY UNIFORM ETHICS CODE<sup>1</sup> FOREWORD**

Pursuant to *N.J.S.A. 52:13D-23*, the State Ethics Commission has adopted this Uniform Ethics Code to govern and guide the conduct of State officers and employees and special State officers and employees in State agencies in the Executive branch of State Government.

The Uniform Ethics Code shall be the primary code of ethics for State agencies. It shall be supplemented by an agency code of ethics formulated with respect to the particular needs and problems of the agency to which said code is to apply. Each agency, in consultation with the Attorney General's Office, must review its enabling legislation to ensure that any agency specific conflicts provisions are included in any supplemental agency code. An agency code must be approved by the Commission.

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<sup>1</sup> New Jersey Uniform Ethics Code, September 2006



## **NEW JERSEY UNIFORM ETHICS CODE TABLE OF CONTENTS<sup>2</sup>**

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<sup>2</sup> New Jersey Uniform Ethics Code, September 2006

## **I. DEFINITIONS**

As used in this Uniform Ethics Code, and unless a different meaning clearly appears from the context, the following terms shall have the following meanings.

“Commission” means the State Ethics Commission, established in but not of the Department of Law and Public Safety pursuant to *N.J.S.A. 52:13D-21*.

“Conflicts Law” means the New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.*

“Ethics Liaison Officer” means the individual(s) designated by the agency head to assist the State Ethics Commission in implementing and enforcing the Conflicts Law and related ethics codes.

“Event” means a meeting, conference, seminar, speaking engagement, symposium, training course, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fundraiser, holiday party, social function, or similar event that takes place away from the State official’s work location, is sponsored or co-sponsored by a supplier or a non-State government source and the invitation for which is extended to the State official because of his or her official position.

“Gift” means any fee, commission, service, Wage, gratuity, or other thing of value of any kind. If an item has more than a nominal monetary value, it will be characterized as a gift. A gift includes admission to an event for which a member of the general public would be charged, a meal, transportation, or offer of employment.

“Head of a State agency” means, in the case of the Executive branch of government, except with respect to interstate agencies, the department head or, if the agency is not assigned to a department, the Governor.

“Immediate Family Member” means an individual’s spouse, child, parent or sibling residing in the same household. *N.J.S.A. 52:13D-13(i)*.

“Interest” means (1) the ownership or control of more than 10% of the profits or assets of a firm, association, or partnership, or more than 10% of the stock in a corporation for profit other than a professional service corporation organized under the "Professional Service Corporation Act," P.L. 1969, c. 232 (C. 14A:17-1 et seq.); or (2) the ownership or control of more than 1% of the profits of a firm, association, or partnership, or more than 1% of the stock in any corporation, which is the holder of, or an applicant for, a casino license or in any holding or intermediary company with respect thereto, as defined by the “Casino Control Act,” P.L. 1977, c. 110 (C. 5:12-1 et seq.). The provisions of this act governing the conduct of individuals are applicable to shareholders, associates or professional employees of a professional service corporation regardless of the extent or amount of their shareholder interest in such a corporation.

“Interested party” means: 1. Any person, or employee, representative or agent thereof, who is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority of the State official's agency; 2. Any supplier, or employee, representative or agent thereof; 3. Any organization that advocates or represents the positions of its members to the State official's agency; or 4. Any organization a majority of whose members are as described in paragraphs 1 through 3 above.

“Person” means any natural person, association or corporation.

“Published work” means any tangible medium of expression, including, but not limited to, literary, pictorial, graphic and sculptural matter; sound recordings; and software. *N.J.A.C. 19:61-6.2*.

“Relative,” as used in section XIII, means an individual’s spouse, and the individual’s or his/her spouse’s parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, whether the relative is related to the individual or the individual’s spouse by blood, marriage or adoption.

“Special State officer or employee” means (1) any person holding an office or employment in a State agency, excluding an interstate agency, for which office or employment no Wage is authorized or provided by law, or no Wage other than a sum in reimbursement of expenses, whether payable per diem or per annum, is authorized or provided by law; (2) any person, not a member of the Legislature, holding a part-time elective or appointive office or employment in a State agency, excluding an interstate agency, or (3) any person appointed as a New Jersey member to an interstate agency the duties of which membership are not full-time.

“State agency” means any of the principal departments in the Executive branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, and, to the extent consistent with law, any interstate agency to which New Jersey is a party and any independent State authority, commission, instrumentality or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

"State officer or employee" means any person, other than a special State officer or employee (1) holding an office or employment in a State agency, excluding an interstate agency, other than a member of the Legislature or (2) appointed as a New Jersey member to an interstate agency.

“Supplier” means any person that is providing or is seeking to provide or may reasonably be expected to provide goods and/or services to the State officer or employee’s or special State officer or employee’s agency, including, but not limited to, consultants, Firms and lessors.

“Unclassified office or position” means any office or position in the unclassified service of the civil service of the Executive branch of State government.

## **II. GENERAL STANDARDS OF CONDUCT**

It is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, avoid conduct that is in violation of their public trust or that creates a justifiable impression among the public that such trust is being violated. Accordingly, State officers and employees and special State officers and employees shall conform their conduct to the following standards.

1. No State officer or employee or special State officer or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his/her duties in the public interest.

2. No State officer or employee or special State officer or employee should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the Commission.

3. No State officer or employee or special State officer or employee should act in his/her official capacity in any matter wherein he/she has a direct or indirect personal financial interest that might reasonably be expected to impair his/her objectivity or independence of judgment.

4. No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his/her acts that he/she may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee.

#### Misuse of Official Position or Information

5. No State officer or employee or special State officer or employee should use or attempt to use his/her official position to secure unwarranted privileges or advantage for him/herself or others.

6. No State officer or employee or special State officer or employee, shall willfully disclose to any person, whether or not for pecuniary gain, any information not generally available to members of the public which he/she receives or acquires in the course of and by reason of his/her official duties. No State officer or employee or special State officer or employee shall use for the purpose of pecuniary gain, whether directly or indirectly, any information not generally available to members of the public which he/she receives or acquires in the course of and by reason of his/her official duties. Representation/Appearance before a State Agency.

7. No State officer or employee, nor any partnership, firm or corporation in which he/she has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before any State agency. Nothing contained herein shall be deemed to prohibit any such partnership, firm or corporation from appearing on its own behalf.

8. No special State officer or employee, nor any partnership, firm or corporation in which he/she has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before the particular office, bureau, board, council, commission, authority, agency, fund or system in which such special State officer or employee holds office or employment.

Nothing contained in this section shall be deemed to prohibit any State officer or employee or special State officer or employee from representing, appearing for or negotiating on behalf of, or agreeing to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any proceeding:

- i. Pending before any court of record of this State,
- ii. In regard to a claim for Wage arising under chapter 15 of Title 34 of the Revised Statutes (Workers' Wage),
- iii. In connection with the determination or review of transfer inheritance or estate taxes,
- iv. In connection with the filing of corporate or other documents in the office of the Secretary of State,
- v. Before the Division on Civil Rights or any successor thereof,
- vi. Before the New Jersey State Board of Mediation or any successor thereof,
- vii. Before the New Jersey Public Employment Relations Commission or any successor thereof,
- viii. Before the Unsatisfied Claim and Judgment Fund Board or any successor thereof solely for the purpose of filing a notice of intention pursuant to P.L.1952, c.174, s.5 (C.39:6-65),or

- ix. Before any State agency on behalf of a county, municipality or school district, or any authority, agency or commission of any thereof except where the State is an adverse party in the proceeding and provided he is not holding any office or employment in the State agency in which any such proceeding is pending.

### **III. ACCEPTANCE OF GIFTS**

No State officer or employee or special State officer or employee shall accept any gift, favor, service or other thing of value related in any way to the State official's public duties.

Upon the recommendation of the Special Counsel for Ethics Review and Compliance, the Commission has adopted a zero tolerance policy for acceptance of gifts. (See *Report of the Special Ethics Counsel to the Governor of the State of New Jersey*, dated March 14, 2005.) Accordingly, any gift that is offered to or received by a State officer or employee or special State officer or employee or, his/her spouse, immediate family member, partner or associate shall be immediately reported to the agency's Ethics Liaison Officer ("ELO"). Unless the State officer or employee or special State officer or employee is permitted to receive the gift or thing of value in accordance with the Commission's rules on attendance at events (see section IV), no State officer or employee or special State officer or employee or, his/her spouse, immediate family member, partner or associate shall accept, either directly or indirectly, any gift, favor, service or other thing of value related in any way to the State official's public duties.

The exceptions to the zero tolerance rules for acceptance of gifts are set forth below.

- a. Unsolicited gifts or benefits of trivial or nominal value, such as complimentary articles offered to the public in general, and gifts received as a result of mass advertising mailings to the general business public may be retained by the recipient or the recipient's department for general use if such use does not create an impression of a conflict of interest or a violation of the public trust. The receipt of such complimentary articles is not required to be reported to the ELO.
- b. A State officer or employee or special State officer or employee may receive a gift, favor, service or other thing of value from a Firm under the same terms and conditions as are offered or made available to members of the general public.
- c. A State employee is permitted to give or receive a gift from a co-worker, a supervisor or a subordinate. The gift should not be excessive or inappropriate for a business environment. Such gift shall not be reported to the ELO.
- d. In accordance with *N.J.S.A. 52:13D-24*, gift provisions do not apply to the acceptance of contributions to the campaign of an announced candidate for elective public office.

The procedures for reporting receipt of a gift are set forth in Appendix A.

### **IV. ATTENDANCE AT EVENTS**

Attendance at an event that is sponsored or co-sponsored by an entity other than the State must be approved by the agency's ELO.

A State employee must complete the form identified as "Request For Approval For Attendance At Event," prior to attendance.

A State employee shall not attend an event in his or her official capacity unless a legitimate State purpose will be served.

Costs associated with attendance at an event shall be paid or reimbursed in accordance with *N.J.S.A. 52:13D-24* and *N.J.A.C. 19:61-6.1* et seq.

A State employee is prohibited from accepting honoraria in connection with his/her attendance or participation at an event. *N.J.S.A. 52:13D-24*.

A State employee is prohibited from accepting entertainment, or reimbursement for entertainment, that is collateral to an event, such as a golf outing, tickets to a sporting event or a meal taken other than in a group setting with all attendees present.

The Commission's rules on attendance at an event and the form that must be completed prior to attendance at an event are set forth in Appendix B.

## **V. POLITICAL ACTIVITY**

Upon giving notice to the agency ELO, a State employee may be involved in political activities unless:

1. the State employee is prohibited from such activities by State or federal statute or agency rule; or
2. the political activity conflicts with the employee's official duties.

Pursuant to *N.J.S.A. 52:13D-14* and *N.J.S.A. 52:13D-24*, a State employee may accept a contribution to the campaign of an announced candidate for elective public office provided the contribution is not known to be given in lieu of a payment that is prohibited by the Conflicts Law. Further, a State employee is subject to the Department of Personnel's Administrative Code provisions governing political activity, *N.J.A.C. 4A:10-1.2*. Note that a State employee is not permitted to serve as a campaign treasurer on any campaign that is subject to the jurisdiction of the Election Law Enforcement Commission.

The Commission's Guidelines on Political Activities and the provisions of *N.J.A.C. 4A:10-1.2* are set forth in Appendix C.

## **VI. OUTSIDE ACTIVITIES AND BUSINESS INTERESTS**

No State officer or employee or special State officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his/her objectivity and independence of judgment in the exercise of his/her official duties.

A State officer or employee's participation in any service, activity or employment that is outside his/her official State duties may be prohibited by the Conflicts Law, other State or Federal law or regulation, or the code of ethics adopted by the employee's agency. Accordingly, a State officer or employee shall obtain the approval of the ELO prior to engaging in any of the following outside activities.

- a. Commencement of any business, trade, profession or other compensated employment, including the acceptance of Wage for a speech or published work;
- b. Uncompensated or volunteer work for or with any entity; or
- c. Holding office or title in the governing or advisory board of any entity.

Notwithstanding the requirement to disclose outside employment and activities, a State agency may exempt disclosure of specific kinds of outside employment or activities if the agency is satisfied that such activity or employment does not present a conflict of interest.

A State officer or employee is not permitted to hold employment with, hold an interest in, or represent, appear for, or negotiate on behalf of a holder of or applicant for a casino license unless the Commission grants a waiver. A waiver is granted in circumstances where it is determined by the Commission that such casino activity will not interfere with the responsibilities of the State officer or employee and will not create a conflict of interest or the appearance of such conflict. A special State officer or employee is prohibited from holding an interest in or representing, appearing for or negotiating on behalf of a holder of or applicant for a casino license, or any holding or intermediary company with respect thereto, in connection with any matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment with a casino license holder or applicant and, if so employed, may hold an interest in or represent, appear for or negotiate on behalf of his/her casino employer. *N.J.S.A. 52:13D-17.2(b)*

All State officers and employees shall complete the Outside Activity Questionnaire attached to this document as Appendix D, in accordance with the procedures adopted by his/her agency. These procedures shall, at a minimum, require that each current employee complete the questionnaire and that each new employee complete the questionnaire upon commencement of employment with the agency. The procedures shall also require that a State officer or employee amend his/her Outside Activity Questionnaire whenever there is a change in the employee's outside activity or State employment. A State agency shall require disclosure of additional information regarding the outside activities of its employees as necessary to address the particular needs and problems of the agency.

The agency ELO shall review all outside activity questionnaires and determine whether the outside activity is permissible in accordance with the Conflicts Law, the Uniform Ethics Code, the agency code of ethics or any other authority. A State officer or employee may appeal an agency ELO's decision to disapprove an outside activity. Such appeal shall be submitted in writing to the Commission within 60 days of the employee's receipt of the agency's decision. The appeal shall cite the relevant section(s) of the Conflicts Law, Uniform Ethics Code, agency code of ethics or other authority which supports the position of the employee that such outside activity should be permitted.

Each State agency shall develop a Conflict of Interest questionnaire for special State officers and employees of that agency. Each State agency shall develop a process for the review and retention of both Outside Activity Questionnaires and Conflict of Interest Questionnaires.

The Commission's Guidelines Governing Outside Activities are set forth in Appendix E.

### **Blind Trusts**

A blind trust may be used by a State officer or employee, a special State officer or employee, his/her spouse or domestic partner or dependent children to avoid conflicts situations caused by financial interests. The trust must conform to the standards set forth in the Blind Trust Guidelines, Appendix F.

## **VII. OFFICIAL STATIONERY**

Official stationery shall be used only in connection with the State agency's official business. The limitations on use of official stationery also apply to personal stationery paid for by an officer or employee if it is imprinted with the agency office or the title of the State officer or employee.

A State officer or employee or special State officer may not use official stationery to promote a candidate for elective office, endorse a State Firm or contractor, express a personal opinion on a matter that is not related to his/her official duties, or to promote his/her financial or other self-interest.

Exceptions: A State officer or employee or special State officer or employee may use official stationery to write a letter of recommendation for, or respond to an inquiry about, a current or former colleague or employee. These permissible uses are only acceptable so long as the use of official stationery does not create an impression that the State officer or employee is engaged in an unwarranted use of his/her position. For example, it would not be appropriate for a State employee to recommend an individual for inclusion in a program over which the State employee has supervisory or regulatory authority. In addition, there must be a reasonable connection between the officer's or employee's official duties and the use and purpose of the letter.

A State agency may not use official stationery to solicit a contribution from any interested party. Solicitation of any other entity must be reviewed and approved by the agency's ELO.

The Commission's Guidelines with respect to the use of official stationery are set forth in Appendix G.

## **VIII. POST-EMPLOYMENT RESTRICTIONS**

### **Seeking Future Employment**

State officers or employees who have direct and substantial contact with any interested parties must refrain from circulating resumes or in any manner seeking employment with those individuals or entities while still in State service. If an employee is solicited for potential employment by an entity with which he/she has direct and substantial contact, that solicitation must be disclosed immediately to the employee's management and to the agency's ELO. Employees who do not have direct and substantial contact with interested parties may circulate resumes and enter into discussions regarding potential employment with those individuals or entities so long as they avoid any situations that may give rise to an unwarranted advantage. All employees are cautioned that discussions, interviews, and negotiations shall not take place on State time.

Solicitation or discussion of employment with regulated entities, or their representatives, that have a specific cause, proceeding, application or other matter pending before the employee's agency is not permitted. There may be circumstances when solicitation or discussion of employment with respect to regulated entities, or their representatives, could be approved if no specific cause, proceeding, application or other matter is pending before the agency. These situations must be reviewed on a case-by-case basis before the employee proceeds with any job-seeking activities.

### **Lifetime Ban**

At no time subsequent to the termination of his/her office or employment in any State agency may a former State officer or employee or special State officer or employee represent, appear for, negotiate on behalf of, or provide information or services not generally available to members of the public, or agree to perform any of those activities, for any party other than the State in connection with a specific cause, proceeding, application or matter with which the State officer or employee or special State officer or employee had been substantially and directly involved at any time during the course of his/her office or employment. *N.J.S.A. 52:13D-17*. This lifetime ban applies not only to the State officer or employee or special State officer or employee personally, but also to the partnership, firm or corporation under the following circumstances: (1) if the former State officer or employee or special State officer or employee is a shareholder, associate or professional employee of a firm organized as a professional service



corporation or (2) if the former State officer or employee or special State officer or employee owns or controls more than 10% of the stock of a corporation or more than 10% of the profits or assets of a firm, association or partnership.

### **One-Year Ban – Certain State Officials**

In accordance with the recommendation of the Special Counsel for Ethics Review and Compliance, a one-year ban on the activities described in this section shall apply to any head, deputy head or assistant head of any principal department, board, commission or authority, the Superintendent of State Police, the Governor's Chief of Staff, Chief of Management and Operations, Chief of Policy and Communications, Chief Counsel, Director of Communications, Policy Counselor, and any deputy or principal administrative assistant to any of the aforementioned members of the staff of the Office of the Governor. For one year after the termination of the State office or employment of any of the individuals noted above, he/she shall not represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of any person or party other than the State with or before any officer or employee of the State agency in which he/she served. The provisions of this subsection shall not apply to any partnership, firm or corporation in which he/she has an interest or is employed, or to any partner, officer, director or employee of such partnership, firm or corporation. Nothing contained in this section shall prohibit a State agency from contracting with a former State officer or employee to act on behalf of the State. In addition, the governor and each head of a principal department in the Executive branch are prohibited, for one year after the termination of office or employment, from registering as a "governmental affairs agent," as that term is defined in *N.J.S.A. 52:13C-20*. *N.J.S.A. 52:13C- 21.4*.

### **Two-Year Casino Employment Restriction**

*N.J.S.A. 52:13D-17.2* sets forth post-employment restrictions applicable to State officers or employees subject to financial disclosure by law or executive order, and State officers or employees or special State officers or employees with responsibility for matters affecting casino activities.

Such persons are prohibited from holding, directly or indirectly, an interest in, or holding employment with, a casino licensee or applicant for a casino license for a period of two years following the termination of their State employment. In addition, such persons may not represent, appear for, or negotiate on behalf of a casino. This prohibition applies to any business entity in which the person holds an interest or is otherwise associated, including the officers or employees of such business entity. This prohibition applies to the person's immediate family members unless granted a waiver by the Commission. See Section XIV, below. *N.J.S.A. 52:13D-17.2(c)*.

## **Waivers**

In accordance with *N.J.S.A. 52:13D-17.2*, the Commission may grant an exception from the above casino employment restrictions for a person's immediate family member or an employee who was terminated as a result of a reduction in force, (provided that the employee did not hold a policy-making management position during the five years prior to termination of employment) whenever it determines that such waiver will not create a conflict of interest or the appearance of a conflict of interest:

The Commission's Guidelines with respect to Post-Employment Restrictions are set forth in Appendix H.

## **IX. RECUSAL ON OFFICIAL MATTERS**

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with the State officer or employee or special State officer or employee during the one year prior to the employee's commencement of State service.

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter if he/she had any involvement in that matter, other than on behalf of the State, prior to commencement of his/her State service.

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter if he/she has a financial or personal interest that is incompatible with the proper discharge of his/her public duties.

An incompatible personal or financial interest includes, but is not limited to, outside employment; a debtor/creditor relationship; a fiduciary relationship; a source of income; any matter pertaining to or involving a relative or cohabitant; a relationship with a person providing funds, goods or services without Wage; any matter pertaining to or involving a business associate or business investment; and a leadership role in a professional or trade organization, which interest might reasonably be expected to impair a State official's objectivity and independence of judgment in the exercise of his/her official duties or might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he/she may be engaged in conduct violative of his/her trust as a State official.

Upon determining that a State official shall recuse him/herself on any matter, the State official shall execute the recusal in writing, and shall have no involvement with the subject matter of the recusal. If a State official cannot determine whether he/she should execute a letter of recusal in any matter, the State official shall contact his/her agency ELO or the Commission for guidance. A State official shall seek the advice of the State agency's counsel, agency ELO or the Commission as to the propriety of participation in a matter if any person requests that a State official recuse him/herself from that matter. Oral advice, followed up by a writing, shall be provided by the agency's counsel, the agency ELO or the Commission to avoid delay. Oral advice shall subsequently be memorialized by a writing or by inclusion in public minutes.

The Commission's regulations governing recusal, *N.J.A.C 19:61-7.1 et seq.*, which include the required elements for a written recusal, are set forth in Appendix I.

## **X. CONTRACTS**

With few exceptions, a State employee may not enter into a contractual agreement with the State.

An agency head, deputy head or assistant head is prohibited from engaging in any private business transactions with any employee in his/her agency.

### **Limitation on contracting by State officer or employee**

Pursuant to *N.J.S.A. 52:13D-19*, no State officer or employee shall knowingly undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by any State agency. The exceptions to this prohibition are set forth below. As used in this section, State officer or employee also includes his or her partners, any other person for the use or benefit of the State employee or on his or her account or any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock.

### **Limitation on contracting by special State officer or employee**

Pursuant to *N.J.S.A. 52:13D-19*, no special State officer or employee who has duties or responsibilities in connection with the purchase or acquisition of property or services by the State agency where he/she is employed or an officer shall knowingly undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by that State agency. The exceptions to this prohibition are set forth below. As used in this paragraph, special State officer or employee also includes his/her partners, any other person for the use or benefit of the special State employee or on his/her account or any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock.

The restrictions contained above shall apply to the contracts of interstate agencies to the extent consistent with law only if the contract, agreement, sale or purchase is undertaken or executed by a New Jersey member to that agency or by his/her partners or a corporation in which he/she owns or controls more than 1% of the stock.

### **Permissible Contracts with the State**

(1) With the prior approval of the Commission, a State officer or employee or special State officer or employee is permitted to enter into the following:

(a) purchases, contracts, agreements or sales which are made or let after public notice and competitive bidding or which, in accordance with public bidding laws or regulations applicable to other State agencies, may be made, negotiated or awarded without public advertising for bids, or

(b) any contract of insurance entered into by the Director of the Division of Purchase and Property pursuant to *N.J.S.A. 52:27B-62*.

(2) A State officer or employee or a special State officer or employee or his partners or any corporation or firm in which he/she owns or controls more than 1% of the stock, assets or profits may enter into a contract or agreement with a State agency where the contract or agreement is for the development of scientific or technological discoveries or innovations in which the State agency has a property right, if the State agency has a procedure in its code of ethics for authorizing these contracts or agreements that

minimizes actual conflicts of interest, and the code of ethics was approved in accordance with *N.J.S.A. 52:13D-23*, and the contract or agreement complies with that code procedure.

(3) A State officer or employee or a special State officer or employee or his/her partners or any corporation or firm in which he/she owns or controls more than 1% of the stock, assets or profits may enter into a rental agreement with a State agency which operates a facility which rents space or provides services to assist small businesses which employ 50 people or less, pursuant to the same terms and conditions as those offered to members of the public generally.

**Please note that the Commission has never approved a request by a State officer or employee, or special State officer or employee, to enter into a contract with his/her own agency.**

The Commission's Guidelines on Privatization, set forth in Appendix J, are applicable to a State employee's participation in an open competitive bid process for the privatization of services currently being provided by his/her agency.

## **XI. RETIREMENT GIFTS**

A gift can be given to a State employee upon his/her retirement from State service. There are specific limits to the value of a permissible retirement gift. A State employee shall refer to Appendix K for the provisions governing retirement gifts.

## **XII. WAGE FOR PUBLISHED WORKS**

A State officer or employee or special State officer or employee may not solicit, receive, or agree to receive, Wage from sources other than the State for published work(s) created as part of his/her official duties on State time and/or using State resources.

However, a State officer or employee or special State officer or employee, other than a "designated State officer," (the Governor, cabinet-level officers and other principal administrative officers of the State) may, in connection with any service, advice, assistance, appearance, speech or other matter related to his/her official duties, receive or agree to receive, whether directly or indirectly, from sources other than the State, reasonable fees for published works on matters within his/her official duties not created on State time and/or using State resources.

In addition, a State officer or employee or special State officer or employee may accept Wage from sources other than the State for published work(s) on matters unrelated to his/her official duties created on his/her own time and with non-State resources.

Before agreeing to accept or accepting any Wage from a source other than the State for any published work, a State officer or employee or special State officer or employee must secure his/her State agency's approval to do so.

In determining whether to grant such approval, the State agency shall consider, among other things, whether the Wage is offered by an interested party, and whether the published work uses or discloses information not generally available to the public. The determination shall be consistent with applicable law and agency policy.

No State officer or employee or special State officer or employee may use his/her official title in soliciting Wage for a published work.

The Commission's Guidelines with respect to Published Works are set forth in Appendix L.

### **XIII. FAMILY MEMBERS - CONFLICTS OF INTEREST**

- a. No relative of the Governor may be employed in any unclassified office or position within the State.
- b. No relative of a commissioner or department head may be employed in any unclassified office or position within the department over which the department head exercises authority.
- c. A relative of an assistant or deputy department head may be employed in an unclassified office or position within the department in which the assistant or deputy serves, provided that he/she is not assigned to a position over which the assistant or deputy department head exercises authority.
- d. A relative of a head or assistant head of a division within a department may be employed in an unclassified office or position within the department in which the division head or assistant division head serves, provided that he/she is not assigned to a position over which the assistant or deputy department head exercises authority.
- e. A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency or instrumentality of the State may not be employed in any office or position in that entity.
- f. A relative of an appointed New Jersey member of a governing body of a bi-state or multi-state agency may not be employed in an office or position in that bi-state or multi-state agency, unless otherwise permitted by law.
- g. No State officer or employee or special State officer or employee may supervise his/her relative, or exercise any authority with regard to personnel actions involving his/her relative
- h. Each State agency shall require State officers and employees and special State officers and employees to disclose information sufficient for the agency to determine whether the employment of any individual within the agency is prohibited.

#### **Cohabitation**

The Commission has determined that the prohibition regarding personnel actions and the supervision of family members, set forth in paragraph 7 above, is applicable to non-related individuals who share the same household with the same financial interdependence that the Commission views as creating a conflict in spousal situations.

#### **Dating Relationship**

In the case of individuals involved in dating relationships, the Commission has found violations of the Conflicts Law in situations where the State employee had official involvement in a matter affecting the individual with whom he/she had a dating relationship. Accordingly, a State officer or employee or special State officer or employee shall not have any involvement in his/her official capacity in any matter that pertains to or involves an individual with whom he/she has a dating relationship.

The Commission's guidelines with respect to "Official Interactions with Family Members/Cohabitants and Dating Relationships" is attached hereto as Exhibit M.

#### **XIV. CASINO-RELATED FAMILY MEMBER RESTRICTIONS**

##### **Concurrent Employment Restriction**

An immediate family member of a State officer or employee, or of any “person,” as defined at *N.J.S.A. 52:13D-17.2(a)*, may not hold directly or indirectly, an interest in, hold employment with, or represent, appear for, or negotiate on behalf of a holder of, or applicant for, a casino license, or any holding or intermediate company with respect thereto.

However, an immediate family member of a State officer or employee or “person” may be employed by a casino in circumstances where it is determined by the Commission that such employment will not interfere with the responsibilities of the State officer or employee or “person” and will not create a conflict of interest or the appearance of such conflict. *N.J.S.A. 52:13D-17.2(b)*.

##### **Post-Employment Restriction**

An immediate family member of a “person,” as defined at *N.J.S.A. 52:13D-17.2(a)*, may not hold, directly or indirectly, an interest in, hold employment with, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license in connection with any phase of casino development permitting, licensure, or any other matter related to casino activity, for a period of two years following the termination of the office or employment of such person. However, an immediate family member of a “person” may be employed by a casino in circumstances where it is determined by the Commission that such employment will not interfere with the responsibilities of the “person” and will not create a conflict of interest or the appearance of such conflict. *N.J.S.A. 52:13D-17.2(c)(1)*.

Casino post-employment restrictions that apply to State officials defined as “persons” are noted in section VIII.

#### **XV. REPORTING COMPLAINTS**

Allegations that a State officer or employee or special State officer or employee has violated a provision of this Uniform Code, the Conflicts Law, the Commission’s rules, an agency code of ethics or any other standard within the jurisdiction of the Commission should be reported to the appropriate agency ELO or the Commission staff. Allegations should contain as much detailed information as possible and, if the complainant chooses to identify him/herself, should include contact information so that the ELO or Commission staff can obtain additional information if necessary. A complainant is not required to disclose his/her identity when reporting an alleged ethics violation.

#### **XVI. PENALTIES**

The Commission is empowered to impose the following penalties in accordance with specific provisions of the Conflicts Law. Note that violations committed by a former State officer or employee or special State officer or employee may be subject to penalties so long as the Commission’s investigation of same was initiated not later than two years following termination of service.

1. *N.J.S.A. 52:13D-17* provides that any person who willfully violates the general post-employment restrictions set forth in that provision is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. In addition, for violations occurring after March 15, 2006, any former State officer or employee or former special State officer or employee found by the Commission to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 or more than \$10,000.

2. *N.J.S.A. 52:13D-17.2(h)* provides that any person who willfully violates the casino-related post-employment restrictions set forth in Section 17.2 (c) is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. In addition, for violations of Section 17.2(c) occurring after March 15, 2006, any former State officer or employee or former special State officer or employee found to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 or more than \$10,000.

3. *N.J.S.A. 52:13D-21(i)* provides that any current or former State officer or employee or special State officer or employee found guilty by the Commission of violating any provision of the Conflicts Law, the Uniform Ethics Code, or any agency code of ethics, shall be fined not less than \$500 nor more than \$10,000, and may be suspended from office or employment by order of the Commission for a period not to exceed one year. In addition, for violations occurring after March 15, 2006, the State Ethics Commission may also order restitution, demotion, censure or reprimand.

This subsection further provides that if the Commission finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of the Conflicts Law, the Uniform Ethics Code or any agency code of ethics, it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period not exceeding five years from the date on which the person was found guilty by the Commission.

This subsection further provides that the Commission may impose a penalty of \$50 per day of violation for failure to file an appropriate financial disclosure statement required to be submitted to the Commission by law, regulation or executive order.

(See penalty provisions set forth at *N.J.A.C. 19:61-3.1(j)* and *N.J.A.C. 19:61-5.6(c)*.) 4. *N.J.S.A. 52:13D-23(d)* provides that violations of the Uniform Ethics Code or any agency code of ethics shall be cause for removal, suspension, demotion or other disciplinary action by the State officer or agency having the power of removal or discipline. With respect to a person who is in the classified civil service, the procedure leading to such removal or discipline shall be governed by the Civil Service Act, *N.J.S.A. 11A:1-1 et seq.* and the Rules of the Department of Personnel. No action for removal or discipline shall be taken under this subsection except upon the referral or with the approval of the Commission.

5. *N.J.S.A. 52:13D-26* provides that any person who willfully induces or attempts to induce a State officer or employee or special State officer or employee to violate any of the provisions of the Conflicts Law is a disorderly person, and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 6 months, or both.

## EXHIBIT J

### SMALL BUSINESS ENTERPRISE / MINORITY BUSINESS / WOMAN OWNED BUSINESS

#### SMALL / MINORITY / WOMAN BUSINESS ENTERPRISE FORM

If your firm is registered with the State of New Jersey as a Small Business Enterprise (SBE), and/or Certified as a Woman Business Enterprise (WBE) or Minority Business Enterprise (MBE) you must send a copy of the Registration / Certification Form with your Proposal. Please check off the gross receipt category of your business if registered as an SBE

- SBE CATEGORY 1                      \$0- \$500,000                      \_\_\_\_\_
- SBE CATEGORY 2                      \$500,001 thru \$5,000,000                      \_\_\_\_\_
- SBE CATEGORY 3                      \$5,000,001 thru \$12,000,000                      \_\_\_\_\_
- NOT APPLICABLE                      \_\_\_\_\_

SBE Registration # \_\_\_\_\_

Please check below if applicable

Woman Business Enterprise       \_\_\_\_\_    Minority Business Enterprise \_\_\_\_\_



**APPENDIX A**  
**SUBCHAPTER 2. PURCHASING AND CONTRACTING REGULATIONS**

§ 19:9-2.12 Procedures to resolve protested solicitations and awards

(a) Any actual or prospective bidder, offeror or contractor who is aggrieved in connection with the solicitation or award of a contract or its prequalification status or classification may protest to the Authority. The protest shall be submitted in writing within five business days after such aggrieved person knows or should have known of the facts giving rise thereto. Failure to file a timely protest shall bar any further action. The written protest shall set forth in detail the facts upon which the protestant bases its protest.

(b) Upon the filing of a timely protest, the Executive Director or his or her designee shall have the authority to conduct a hearing, to settle and resolve a protest of an aggrieved bidder, offeror or contractor concerning the solicitation or award of a contract or its prequalification status or classification, with the Executive Director retaining authority for the final decision of the Authority. This authority shall be exercised in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) If the protest is not resolved by mutual agreement, the Executive Director shall promptly issue a decision in writing. The decision shall state the determination made and reasons for the action taken. The decision shall be mailed or furnished promptly to the protestant and any other interested party.

(d) A decision under (c) above shall be final and conclusive, unless any person adversely affected by the decision commences an action in court.

(e) In the event of a timely protest under (a) above, the Authority shall not proceed further with the solicitation, or with the award of the contract until the decision is rendered under (c) above, or until the Executive Director after consultation with the Director of Purchasing or Chief Engineer makes a written determination that the continued solicitation or award of the contract without delay is necessary to protect the interest of the Authority or the public.